

ZONING BOARD OF ADJUSTMENT
OCTOBER 27, 2022

PRESENT: Chuck Ross, Michael Druz, Phil Greig, Annemarie Drazenovich, Mark Fitzgerald, Tony Almeida, Mike Melango, Tom Palmisano, and Holly Deitz

ABSENT: John Lisko

ALSO, PRESENT: Board Attorney Kevin Kennedy, Zoning Official Ted Bianchi, Board Engineer Jerry Freda, and Board Secretary April Claudio

Mr. Kennedy administered the Oath of Office to Mr. Almeida.

Mr. Greig made a motion to waive the reading and approve the minutes of the September 22, 2022 meeting, which was seconded by Ms. Deitz and approved by the following vote:

AYES: Mr. Greig, Mr. Palmisano, Mr. Melango, and Ms. Deitz

ABSTAIN: Mr. Ross, Mr. Fitzgerald and Mr. Almeida

The resolution for Edelman Investment Group, 112-114 12th Avenue and 108-108 ½ 12th Avenue was carried to the next meeting.

Mr. Melango made a motion to waive the reading and approve the resolution for Edison Iselin LLC, 105 13th Avenue, which was seconded by Mr. Greig and approved by the following vote:

AYES: Mr. Ross, Mr. Greig, Mr. Palmisano, Mr. Melango, and Ms. Deitz

ABSTAIN: Mr. Fitzgerald and Mr. Almeida

Mr. Greig made a motion to waive the reading and approve the resolution of Gioacchino & Erica Rivetti, 101 20th Avenue, which was seconded by Ms. Deitz and approved by the following vote:

AYES: Mr. Ross, Mr. Greig, Mr. Palmisano, Mr. Melango, and Ms. Deitz

ABSTAIN: Mr. Fitzgerald and Mr. Almeida

Mr. Ross made a motion to waive the reading and approve the resolution for Joseph Schmidt, 219 Eighth Avenue, which was seconded by Mr. Greig and approved by the following vote:

AYES: Mr. Ross, Mr. Greig, Mr. Palmisano, Mr. Melango, and Ms. Deitz

ABSTAIN: Mr. Fitzgerald and Mr. Almeida

FUCCILLI FAMILY LLC/400 OCEAN LLC – 400 & 402-408 OCEAN AVENUE

Mr. Melango stepped down and was replaced by Ms. Drazenovich. Mr. Druz also is recused from the application. Continuation of the application from the August 25, 2022 meeting. Appearing for this application was Attorney William Shippers, owner Nick Fuccilli, Planner Joe Kociuba, engineer Douglas Clelland, architect Richard Tokarski, and contractor Mike DeBlasio.

Exhibits: A10 Mark Fitzgerald certification, A11 Tony Almeida certification, A12 revised engineering plan, A13 revised environmental impact report, A14 revised Leon S. Avakian review letter, A15 Ocean Avenue façade rendering.

Mr. Clelland discussed the revisions to the plan. The refuse enclosure was changed in shape, size and location to follow the setbacks. The height of the structure is 8 feet. Also adding additional plantings along the south property line for a buffer.

Mr. Tokarski explained the proposed floor plans and architectural changes. The proposal includes combining the first-floor restaurants to create a new dining and bar area, creation of a new kitchen, new ADA compliant bathrooms, new employee bathroom, new staircase to the second floor, new office for the commercial space on the second floor. The exterior changes are just cleaning up the façade. No net increase in occupant load. Existing are 450 occupants, the new occupancy is the same, just spread out differently among the dining area, bar area and outside dining. The proposed changes will create an elegant facility that will be an icon for the area.

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Mr. Kociuba stated the intention is to combine two dining facilities into one, there will be a number of improved changes to the site, refuse enclosure is being improved, noise reduction, improvements to screening along the west side residential area, aesthetic improvements to the building, removal of unsightly exterior features. The occupancy stays the same therefore the parking demand stays the same. The proposed uses of the building are permitted uses in the zone. There are a lot of existing non-conformities that are continuing and not changing. Building coverage is conforming and the impervious coverage has been slightly reduced and is conforming. The existing floor area ratio is increasing from bringing the existing outside enclosures into the building. Can justify the site can handle the increase in floor area. There is no detrimental impact to the site. Variances can be granted under the C1 or C2 criteria. Safety will also be improved.

Mr. DeBlasio explained all gas and electric meters will be consolidated to a code compliant location, electric will move from above ground to underground to eliminate most or all of the wires, and a lot of brick on the façade needs to be addressed.

Mr. Freda would like the applicant to agree to consolidating the lots since it will be one use with one owner. Mr. Shippers replied yes. Mr. Freda asked if there is an increase in bedrooms in the second-floor apartments. Mr. Tokarski replied no.

Mr. Ross asked about the walk-in freezer and refrigerator in the back being quiet. Mr. Tokarski stated they are newer models and will be quiet. Mr. DeBlasio stated there is a lot of equipment in the back now including a/c units which is much louder now than it will be.

Mr. Greig asked if consolidating the lots changes any of the variances. Mr. Freda replied no, because the variances they requested were based on the total area of the two lots. Mr. Greig asked if the outdoor dining occupancy will increase. Mr. Fuccilli stated it will be slightly decreasing. Mr. Greig asked about bands and live music. Mr. Fuccilli stated sometimes he has one person or a duo but no bands. Mr. Shippers pointed out the outdoor dining occupancy is going from 144 to 98.

Ms. Deitz asked for a refresher on the parking. Mr. Clelland stated there are nine parking spots today and eighteen proposed, one of which is handicap accessible. Twelve spaces will be for the residential apartments and the rest will be for the restaurant.

Mr. Almeida asked if the new stairwell to the apartments was included in the floor area ratio calculation and if the existing stairwell will be removed. Mr. Tokarski replied yes to both.

Mr. Fitzgerald asked about signage. Mr. Fuccilli stated they have finalized the signage but will comply with the ordinance. Mr. Fitzgerald asked if the permanent fencing on the 4th Avenue side something could be removable in the winter. Mr. Shippers asked Mr. Bianchi if Mr. Fuccilli is permitted to have a fence. Mr. Bianchi replied yes. Mr. Ross pointed out that is about 10 feet back from the sidewalk. Mr. Clelland stated it is low enough to meet the site triangle requirements.

Public: Peter Visceglia, 407 Ocean Avenue, asked if the impact to the residential property of the south was considered, was there a comparison of existing site lines to proposed site lines, was the location of the outdoor coolers considered for a different location. Mr. Tokarski stated they did take into consideration the site lines. Any views they have now will be maintained. He added they cannot move the kitchen to the north side because of the entrance to the driveway and stairwell to the apartments. There is an existing kitchen for the second restaurant already on the south side. Mr. Clelland stated there is currently a few large dumpsters on the south property line which is being vastly improved. It will be 10 feet from the property line and enclosed. Mr. Fitzgerald stated there will be shrubbery there too. Mr. Visceglia and the other condo owners would appreciate the opportunity to meet with the applicant to see if some of their concerns could be addressed in a more informal meeting.

Spencer Page, 407 Ocean Avenue, would like the Board to take into consideration what's existing and how its changing.

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Maureen Naples, representing her aunt who lives at 407 Ocean Avenue, was concerned about the height of the existing trellis increasing in height when it is included into the building affecting the views of those in the condos.

Mr. Fitzgerald asked Mr. Kennedy to speak on the issue of blocked views. Mr. Kennedy stated generally speaking there is no right to views however there could be some caveats where it could be taken into consideration.

Mr. Ross stated there is not much expansion of the variances. He visited the site because he was also concerned about blocked views. The condo building has front facing balconies which will not be affected. If any view is impacted, it would only be slightly impacted and it would be the view to the north. A lot of the changes will have a minor impact.

Mr. Greig agreed. Doesn't see it creating any problems for anyone.

Mr. Almeida asked for clarification on the balcony. Felt the other Board members summed it up well. The variances are minimal. Would like to see it have more a beachy look but that is just his opinion.

Mr. Fitzgerald felt a less bold façade would be more aesthetically pleasing. The patchwork that has been done to the interior have created business and function issues which is understandable. All of the requests seem to be within reason.

Mr. Greig made a motion to approve the application, which was seconded by Mr. Ross and approved by the following vote:

Ayes: Mr. Ross, Mr. Greig, Mr. Palmisano, Mr. Fitzgerald, Ms. Drazenovich, Ms. Deitz and Mr. Almeida

8:10 pm – The Board took a five-minute recess.

8:16 pm – The Board reconvened. Roll Call was taken. Ms. Deitz and Ms. Drazenovich left the meeting.

MARK KAZEMI & ANDREA SWEENEY – 201 19TH AVENUE

Appearing for this application was Mr. Kazemi and Ms. Sweeney and their architect Brian Berzinskis and contractor Anthony Hufnagel. The proposal is for an addition and relocation of the driveway.

Exhibits marked: A1 application, A2 minor land use, A3 front setback letter, A4 second front setback letter for south side, A5 driveway plans, A6 architectural plans.

The property currently has a single-family home that they have owned and occupied since 2017. Appeared before the Board several years ago for a deck for their summer home. During the pandemic they lived in Belmar with their children full time and realized Belmar is a special place to live and raise a family. Would like to build an addition to add more space and to move the driveway to create a fenced in backyard for the children. Essentially asking to make their summer home their permanent home.

Ms. Claudio stated Mr. McGill who represents the application for 208 15th Avenue is requesting his application be carried to the November 10th meeting and be first on the agenda given the hour of the night. There will not be any further notice. Mr. Kennedy pointed out there are two objecting attorneys for this application as well. Mr. Fitzgerald felt that would be best.

The Board unanimously agreed to carry the application.

Continuing with the application for 201 19th Avenue, Mr. Berzinskis submitted A7 photos of the existing site and A8 survey imposed with setback lines. The lot is undersized now. He explained the existing setbacks, some of which are noncompliant. He explained the existing and proposed floor plans. The half story and height will be in compliance.

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Variances: lot size, side setback, 19th Ave front setback, driveway width, rear setback, building coverage of 35.8%, and impervious coverage exceeded by 1.53%. Will comply with floor area ratio. The increase in building coverage is due to the large covered front porch.

Ms. Sweeney explained she would like a fenced in back yard for her kids. Would like to shift the driveway up closer to the house. Requesting a variance for 14ft wide instead of 10ft to allow for two cars to park side by side.

Mr. Almeida asked if the house is in a flood zone and at what point does the house have to be brought into FEMA compliance. Ted said 50%. Mr. Almeida asked about the fence setback. Ms. Sweeney stated they will comply with the 4ft setback.

Mr. Almeida asked if the sunroom will be heated. Mr. Berzinskis stated they are unsure, but he included in his floor area ratio and building coverage calculations in case it is heated. Mr. Almeida asked if there will be a new curb cut. Ms. Sweeney replied yes and added that it may add one more parking space to the street.

Mr. Berzinskis clarified that if the new driveway is approved and the old driveway goes away, then there is no impervious coverage variance.

Mr. Greig asked for clarification on the driveway and if a parking variance is required. It was clarified that they are proposing one parking space but could make room for two and request a variance for a third parking space. Ms. Sweeney calculated the impervious coverage with this change and would be in compliance. The Borough would gain 10 feet of curb adjacent to an existing parking space which may create an additional space on the street. Mr. Greig asked for the width of the curb cut. Ms. Sweeney would like it to be 18ft.

Mr. Bianchi was concerned that they did not comply with the half story definition. It was determined that it does not comply with the half story because of the roof height of the stairwell. Mr. Berzinskis stated the rest of the half story is in compliance.

There was discussion about compliance with the flood elevation. Ms. Claudio explained when they submit permits the Floodplain Administrator will review the plans for compliance.

The Board felt the requests were reasonable given it's difficult with a corner lot.

Public: none

Mr. Greig made a motion to approve the application, which was seconded by Mr. Ross and approved by the following vote:

AYES: Mr. Ross, Mr. Greig, Mr. Palmisano, Mr. Fitzgerald, Mr. Melango, Mr. Druz and Mr. Almeida

JOSEPH BYRNE – 1303 ½ H STREET

Appearing for this application was Mr. Byrne, attorney Edward McKenna, and architect Jeremiah Regan.

Exhibits marked: A1 application, A2 minor land use, A3 architectural plans and A4 photo packet.

Mr. McKenna stated the Byrne family has owned the property for 90 years. The main house was used as their family home. (Mr. Byrne and his seven siblings and their aunt) The property also has a rear bungalow that was damaged by a fire about two years ago from a neighboring vehicle fire. It was significantly destroyed and has been gutted. The application is to rebuild the rear structure. The plan is to allow one resident who lived with the aunt to occupy the bungalow and the other 7 siblings use the main home as they have done. The rear bungalow would be occupied permanently. The house would go from an almost 0 ft. setback to 4 ft. so it can have windows.

Mr. Regan explained the rear structure was 681 square feet and the living space is being reduced to 672 square feet but will have a front porch.

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It was clarified that the required setback for the accessory structure is 3 feet not 10 feet as listed in the notice.

Mr. Bianchi asked about the flood zone. Mr. Regan stated he determined the property is in the X zone and they have an elevation certificate. Mr. Bianchi would like to make sure the Floodplain Administrator reviews it.

Public: Ed Ziegler, 1305 H Street, believes he is to the rear of this property. He was concerned about safety and aesthetics of the rear setback. Mr. Fitzgerald pointed out that the setback will be in compliance per earlier testimony.

Mr. Melango sees benefits to moving the location of the building. Mr. Almeida suggested they consider making the rear setback 5 feet, so they don't need to make it fire rated. Mr. Greig stated it will be an improvement. Would like to see them work with the neighbor to clean up the fire debris. The other board members were in favor of the application. Mr. Fitzgerald commended them for wanting to put back what they had just nicer and to code but not proposing something bigger.

Mr. Fitzgerald made a motion to approve the application, which was seconded by Mr. Melango and approved by the following vote:

AYES: Mr. Ross, Mr. Greig, Mr. Palmisano, Mr. Fitzgerald, Mr. Melango, Mr. Druz and Mr. Almeida

Mr. Fitzgerald made a motion to adjourn the meeting, which was seconded by Mr. Melango and approved unanimously.